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93-7

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of

Petition for Declaratory  
Ruling Concerning Preemption  
of State Restrictions on  
Cable Operators' Use of Converter  
Boxes, Scrambling, Encryption  
or Digital Technology

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Public Notice No. 43173

EX PARTE PRESENTATION OF THE CITY OF AKRON, OHIO,  
AND SURROUNDING MUNICIPALITIES  
(COLLECTIVELY "AKRON AREA CITIES")

David Muntean, Esq.  
Assistant Law Director

The City of Akron  
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For the Akron Area Cities

Dated: August 12, 1994

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## SUMMARY

The City of Akron and surrounding municipalities of Barberton, Stow, Tallmadge, Fairlawn, Mogadore, Silver Lake, Doylestown, and Springfield Township, Ohio (hereinafter "Akron Area Cities") filed Comments in this proceeding on June 23, 1994. On July 8, 1994 Time Warner Entertainment Company, L.P. ("Time Warner"), filed its Reply Comments in this proceeding. Time Warner, in its Reply Comments, asserted that the Akron Area Cities are making "... exaggerated and unsubstantiated claims ...".<sup>1</sup> The Akron Area Cities strongly disagree with Time Warner's assertion and feel compelled to file this Ex Parte Presentation (which along with the other filings of the Akron Area Cities is also timely under FCC rules) which provides additional information to the Federal Communications Commission regarding the "home terminal" situation in the Akron Area.

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<sup>1</sup> Reply Comments of Time Warner Entertainment Company, L.P. at page i.

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**EX PARTE PRESENTATION OF THE CITY OF AKRON, OHIO,  
AND SURROUNDING MUNICIPALITIES  
(COLLECTIVELY "AKRON AREA CITIES")**

**I. INTRODUCTION**

The Akron Area Cities are filing this Ex Parte Presentation pursuant to 47 C.F.R. Section 1.1206(a)(1). The Akron Area Cities believe that it is necessary, in order to properly represent the public interest, to supplement their previously filed Comments in this proceeding in response to various issues raised by Time Warner in its Reply Comments. An original and one copy of this Ex Parte Presentation have been submitted to the Secretary of the Federal Communications Commission ("FCC" or "Commission").

On March 18, 1994, the Committee on Science, Technology and Energy of the New Hampshire House of Representatives ("the Committee") filed a Petition for Declaratory Ruling with the FCC. This Petition seeks a ruling from the Commission regarding the validity, under federal law, particularly the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") and FCC rules, of legislation known as HB 1342 adopted by the New Hampshire House of Representatives which pertains to the use of converter boxes and scrambling.

On June 23, 1994, the communities of Akron, Barberton, Stow, Tallmadge, Fairlawn, Mogadore, Silver Lake, Doylestown, and Springfield Township, Ohio (hereinafter "Akron

Area Cities") filed Comments in this proceeding urging the Commission to issue a favorable ruling that would stipulate that the provisions of HB 1342 are not preempted by the 1992 Cable Act or FCC rules, if such a ruling is broadly drawn. Franchising authorities need to be able to take such action as necessary to address consumer electronic interface problems that detrimentally affect consumers.

On June 23, 1994, the Akron Area Cities also filed Comments and Informal Request For Commission Action in ET Docket No. 93-7 urging the Commission to immediately ban scrambling of the cable programming service tier(s) because of the serious detrimental effects such scrambling is having on cable subscribers in the Akron Area and countless other jurisdictions.

On July 8, 1994, Time Warner filed its Reply Comments in this pending proceeding (Public Notice No. 43173). While there were a number of entities which participated in this pending proceeding, it appears that those Reply Comments were primarily in response to the Comments and Informal Request for Commission Action of the Akron Area Cities in ET Docket No. 93-7.

On July 20, 1994, the Akron Area Cities filed a letter (with numerous attachments such as municipal resolutions, complaints, newspaper articles and correspondence) with the Chief of the FCC's Cable Services Bureau. A copy of the letter and attachments are attached hereto as Appendix 1 and incorporated herein by reference. That letter asks the FCC to determine if the introduction by Warner Cable Communications of Greater Akron of a "home terminal", which is now required to receive the cable programming services tier, constitutes an evasion of FCC regulations.

## **II. DISCUSSION**

### **A. THE AKRON AREA CITIES FILING IN ET DOCKET NO. 93-7 IS TIMELY**

Time Warner has asserted that the Akron Area Cities Informal Request for Commission Action is untimely. Contrary to Time Warner's assertion, that filing in ET Docket No. 93-7 is timely in that the Commission's rules (specifically Section 1.41) allow such a filing to be made at any time. That filing was not a Petition for Reconsideration. Further, the issues raised by the Akron Area Cities are ripe in that subscribers in Akron are currently being detrimentally affected by Time Warner's decision to implement scrambling of the cable programming services tier (satellite tier). The Akron Area Cities continue to respectfully request the FCC to address this issue now rather than waiting for the issuance of a Further Notice of Proposed Rule Making sometime in the future. The FCC has already stated its desire to develop an expanded record regarding the scrambling of regulated tiers of cable service and the Akron Area Cities are assisting in that regard.

### **B. TIME WARNER'S CABLE SYSTEM UPGRADE PROVIDES SOME BENEFITS TO SUBSCRIBERS**

The Akron Area Cities are not opposed to Time Warner's decision to upgrade its cable systems using fiber optics. The Akron Area Cities acknowledge that ancillary benefits generally are derived from cable system upgrades such as increased channel capacity, interactive services and better system reliability. The Akron Area Cities welcome progressive telecommunications systems. However, the Akron Area Cities strongly object to Time Warner's decision to scramble the satellite tier which decision is anti-consumer and, in reality, anti-progressive. That decision necessitates that any subscriber who wants to receive the satellite tier from the upgraded system must rent a "home terminal" at a monthly cost of \$3.45 per box. Attached are resolutions, newspaper articles and letters which are

indicative of the public outcry which has occurred in the Akron Area Cities regarding the home terminal, scrambling of the satellite tier, and the resultant cost increases on subscribers' bills.

Time Warner has attempted to portray the Akron Area Cities as being anti-progressive regarding the upgrade. That simply is not the case. Rather, the Akron Area Cities are specifically opposed to Time Warner's policy which mandates the lease of one or more home terminals to receive a tier of service which was not scrambled prior to the cable system upgrade. Introduction of the home terminals causes rather than reduces consumer electronic compatibility problems between televisions and VCRs and is not progress, but rather is a step backwards.

**C. CONSUMERS ARE FORCED TO RENT THE PIONEER 9000 TERMINAL IF THEY WANT TO RECEIVE THE SATELLITE TIER**

The situation in the Akron Area is that if a subscriber wants the satellite tier, he or she has no alternative but to rent at least one home terminal. The problem increases with multiple television sets and the utilization of VCRs. The illustrations table contained in the Akron Area Cities letter which was filed with the Cable Services Bureau reflects the significant percentage cost increases that subscribers are experiencing.

In its Reply Comments, Time Warner has gone to great lengths to describe the enhanced programming choices which are available as a result of the cable system upgrade.<sup>2</sup> The new programming services, though, are almost all a-la-carte, premium and pay-per-view services. If a subscriber wants to select legitimate specialized services beyond the regulated basic and cable programming services tier, then it is generally understood that there may be additional charges. However, why should a subscriber who wants to receive only the

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<sup>2</sup> Id. at p. 3.

regulated basic and satellite tier be forced to pay the additional charge to rent a home terminal?

Once the home terminal is already in a home, it is not surprising, according to Time Warner, that "... 86 percent of Time Warner subscribers who have the a-la-carte programming available to them have opted to order the expanded programming either as individual channels or as part of a package."<sup>3</sup> Many subscribers, trying to obtain some value commensurate with the high cost forced on them to lease an otherwise unwanted converter box, will be motivated to make some purchase just to justify the converter expense. The pertinent question then becomes what percent of the 86% figure actually buy an a-la-carte channel or channels as compared to the entire package. If the vast majority of subscribers take the a-la-carte package, the question then further becomes should the package be treated as a regulated tier of service versus an unregulated group of channels? The City of Akron is examining this very question in conjunction with its current rate regulation analysis of Time Warner's basic rates and programming structure. Further, the use of this 86% figure is also skewed by the fact that Time Warner agreed to offer the 12 channel a-la-carte package free for 90 days pursuant to an agreement reached with Ohio Congressman Tom Sawyer.

Time Warner asserts that approximately 10% of all subscribers now require a converter/descrambler to receive only the same services they received before the upgrade without a converter.<sup>4</sup> The Akron Area has a subscriber base of approximately 100,000 subscribers. The Akron Area Cities submit that 10,000 households (which could include

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<sup>3</sup> Id. at p. 3.

<sup>4</sup> Id. at p. 5.



anywhere from 10,000 to 25,000 people or more) do not represent "... only a handful of subscribers."<sup>5</sup>

Contrary to Time Warner's other assertions, the Akron Area Cities are cognizant of the new programming choices (a-la-carte, premium and pay-per-view services) which are made available by the cable system upgrade. However, why should basic and satellite tier only subscribers subsidize Time Warner's introduction of the home terminal? Time Warner has indicated that its home terminal is needed for nonregulated categories of services. If so, why not make only those subscribers pay (i.e., rent the home terminal) who want to access the nonregulated services? **It is simply unfair to force subscribers to rent a box they did not need, or want in the past, to now access the satellite tier.**

Furthermore, Time Warner's reference to the price differential between the old converter box and new home terminal needs to be clarified. According to Time Warner's Form 393 submission, dated as of April 21, 1994, there were three converter boxes in service for the cable system as it existed prior to the upgrade. The following table indicates the number of converters and rental price for each according to the April 21, 1994 Form 393:

1.	Premium converter with volume control	\$2.99/month <sup>6</sup>	6,865 units <sup>7</sup>
2.	Premium converter	.20/month	39,488 units
3.	Standard converter	.06/month	22,699 units

Only 6,865 units, out of a possible 69,052 units in service at the end of 1993 can be used for the price comparison differential of \$2.99 vs. \$3.45 per month. The more telling fact is that over 60,000 boxes cost .20 or less per month for subscribers before the upgrade. The price

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<sup>5</sup> Id. at p. 4.

<sup>6</sup> Form 393 of Time Warner Cable of Akron dated April 21, 1994 at Part I, p. 2.

<sup>7</sup> Id. at Part III, p. 2.

differential between \$3.45 per month and \$.06 or \$.20 per month is significant. Further, the price differential is magnified by the number of home terminals needed per household to subscribe to the satellite tier or to allow subscribers to attempt to use the full features of their VCRs. **Further, for most consumers who formerly subscribed only to basic and the standard tier (now called the satellite tier), the converter cost was -0-.**

**D. LEASE OF THE PIONEER 9000 TERMINAL CAUSES COMPATIBILITY PROBLEMS**

In its Reply Comments, Time Warner made a special point of highlighting the positive aspects of the Pioneer 9000 terminal.<sup>8</sup> Neither this proceeding, nor ET Docket No. 93-7 involves an inquiry as to what brand of home terminal has the best features. The focus of these proceedings centers on scrambling and consumer electronic compatibility. Further, a Time Warner citation of A. C. Nielsen studies does not address the fundamental compatibility problem in the Akron Area. Frankly, it appears that the A. C. Nielsen studies may not be Akron Area specific or may even be affected by the fact that study participants may have their own consumer electronic compatibility problems which constrain their viewing and recording patterns. Time Warner admits that an inherent problem with its satellite tier scrambling is you need multiple home terminals to watch and record the popular programming signals on this tier. The problem, though, will not be alleviated by Time Warner's solution, multiple tuner boxes, in that they are currently projected to be nearly twice as expensive as single tuner boxes. The unavoidable fact is that the new home terminal and satellite tier scrambling cause consumer electronic compatibility problems (especially for basic and satellite tier only subscribers who did not even need a converter box before the upgrade).

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<sup>8</sup> Time Warner Reply Comments at pp. 6-8.

**E. LEASE OF THE PIONEER 9000 TERMINAL DOES DRIVE REVENUE FOR TIME WARNER**

Time Warner, in its Reply Comments, has suggested that 11.25% is a "... modest rate of return on invested capital"<sup>9</sup> as it pertains to the home terminal equipment. Given that the current prime rate is 7 1/4% and that the rate of return offered by the U.S. Government on Treasury Bills, Notes and Bonds ranges from about 3% to 7%, characterization of 11.25% as "modest" is suspect. Further, what risk does Time Warner truly have with investing in the home terminals if it is able to unilaterally force the terminals upon the vast majority of Akron Area subscribers?

The Akron Area Cities also find it intriguing that Time Warner has concluded and indicated that Chairman Reed Hundt would validate Time Warner's system upgrade, even though home terminals are being forced on subscribers. While Time Warner's power of extrapolation is interesting, it is, to the knowledge of the Akron Area Cities, an "unsubstantiated" assumption. Time Warner's version of consumer choice needs to be balanced against unwanted, significant subscriber bill increases. Otherwise, the mandated FCC rate reductions will be negated.

The point is this: Time Warner can absolutely implement a progressive, pro-consumer system upgrade full of programming choices that does not force home terminals on unwilling subscribers and create consumer electronic compatibility problems, if it truly wants to do so.

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<sup>9</sup> Id. at p. 9.

**F. THE AKRON AREA IS DOMINATED BY TIME WARNER / THERE IS NO CABLE COMPETITION AT PRESENT**

Cable competition may be coming for Time Warner in the Akron Area; however at present, Time Warner is the only provider of cable television service. There is no effective competition for Time Warner at present, to restrain its market dominance in the Akron Area. Time Warner can choose to operationally position itself however it desires within legal limits. What the Akron Area Cities have asked for, and Time Warner has refused, is for Time Warner to unscramble the satellite tier. Let the subscribers who truly desire legitimate a-la-carte, premium or pay-per-view services pay for such access to unregulated services by renting a home terminal.

**CONCLUSION**

The Akron Area Cities are mindful of the benefits which can accrue from a cable system upgrade, but oppose unnecessary scrambling of the satellite tier. That scrambling results in higher subscriber costs and unnecessary consumer electronic compatibility problems. If Time Warner truly wants to meet the needs of its subscribers, it can do so by unscrambling the satellite tier and consequently lease the Pioneer 9000 terminal to those who genuinely want it.

Respectfully Submitted,

City of Akron for Itself  
and on behalf of Akron Area Cities

By:   
David Muntean, Assistant Law Director

The City of Akron  
161 South High Street  
202 Ocasek Building  
Akron, Ohio 44308  
(216) 375-2030

CERTIFICATE OF SERVICE

I, Susan Mubaydin, do hereby certify that a true and correct copy of the foregoing Ex Parte Presentation of the City of Akron, Ohio and Surrounding Municipalities (Collectively "Akron Area Cities") was mailed first-class, postage prepaid, this 12th day of August, 1994, to the following:


The Committee on Science, Technology  
and Energy  
New Hampshire House of Representatives  
Legislative Office Building  
Concord, NH 03301

\*Kathleen Franco  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W. -- Room 918  
Washington, D.C. 20554

William W. Farmer  
Vice President of Operations  
and Public Affairs  
Warner Cable Communications  
1655 Brittain Road  
Akron, OH 44210

\*Meredith Jones  
Chief, Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W. -- Room 918  
Washington, D.C. 20554

\* Hand Delivered

  
\_\_\_\_\_  
Susan Mubaydin

July 20, 1994

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Ms. Meredith J. Jones  
Chief, Cable Services Bureau  
Federal Communications Commission  
2033 M Street NW, Room 918  
Washington, DC 20554

**RE: Akron Area Cities/Warner Cable Communications**

Dear Ms. Jones:

We are writing regarding a matter of utmost concern to the municipalities of Akron, Barberton, Stow, Tallmadge, Fairlawn, Mogadore, Silver Lake, Doylestown and Springfield Township, Ohio (hereinafter "Akron Area Cities"). For the reasons specified below, we believe that the introduction by Warner Cable Communications of Greater Akron ("Warner") of a "home terminal", which is now required to receive the cable programming services tier, may constitute an evasion of FCC regulations.

**Facts:** Warner serves approximately 55,000 subscribers in the City of Akron. Warner also serves approximately 50,000 additional subscribers in the communities surrounding Akron. In January, 1994 Warner, in conjunction with its system upgrade, began scrambling the cable programming services tier (known in the Akron Area Cities as the "satellite tier" and formerly the "standard tier"). Prior to the upgrade, that tier was not scrambled. Channel line-ups are attached which pertain to the time period before and after the upgrade. The only significant difference with regard to the satellite tier is the addition of The Weather Channel and the deletion of part-time coverage of C-SPAN II. Neither channel change necessitates the institution of cable programming service scrambling, or the need for the new home terminal. Instead, it appears to us that the home terminal primarily facilitates the provision of 12 a la carte services, which comprise the majority of new programming added as part of the upgrade. Note that in many other cable systems, these same "a la carte" services are packaged together as part of a regulated cable programming services tier. The upgrade is scheduled to be completed in the City of Akron in mid-August and shortly thereafter is scheduled to continue on into the surrounding communities.

Despite the protests of the Akron Area Cities (see the attached materials, including resolutions, complaints, newspaper articles and correspondence), Warner continues to scramble the satellite tier which necessitates the use of a home terminal at a cost of \$3.45 per month (plus \$.15 for a remote control). Every television in a household needs to have a home terminal to receive the satellite tier. Additional home terminals are required if a subscriber wants to tape a program off the satellite tier and record another such program on his/her VCR.

The Akron Area Cities have filed Comments in two proceedings at the FCC regarding the scrambling and home terminal problems (namely In the Matter of Petition for Declaratory Ruling Concerning Preemption of State Restrictions on Cable Operators' Use of Converter Boxes, Scrambling, Encryption or Digital Technology, Public Notice No. 43173, and In the Matter of Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer Electronics Equipment, ET Docket No. 93-7). Those Comments (which are attached) further detail the Akron Area Cities' position on these issues.

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**FCC Regulations:** In the Third Order on Reconsideration, MM Docket No. 92-266, MM Docket No. 92-262 (released March 30, 1994), the FCC strongly stated the following:

"Adding previously unneeded equipment and charging for that equipment in order to provide customers with the same services they received previously may also be an evasion of our rules. Operators must realize that these and similar practices, and other practices which directly violate or evade our rules will not be permitted, and that sanctions will be imposed in appropriate circumstances." (See Paragraph 135.)

**Detrimental Effect:** Any Warner subscriber in the Akron Area Cities will have to rent a home terminal to receive virtually the identical service (the satellite tier) which could have been received in the past without a converter (because that tier was not scrambled prior to the upgrade). The vast majority of the 100,000 plus Warner subscribers in the Greater Akron area subscribe to the basic and satellite tier. The dollars expended by subscribers are substantial based on the number of home terminals needed so that subscribers can continue to obtain the satellite tier on multiple televisions and effectively attempt to use the full functions of their VCRs.

The following table provides examples of the significant increases that Akron subscribers to the basic and satellite tiers with typical cable ready reception equipment set-ups are experiencing as they are upgraded:

Type	Service Cost*	Equipment Cost**	Total Cost**	% Increase
Non-Upgraded, TV and VCR on one or more outlets	\$19.43	0	\$19.43	0
Upgraded, TV on one outlet	\$19.43	\$3.45	\$22.88	17.8%
Upgraded, TV and VCR on one outlet OR Upgraded, TV on two outlets	\$19.43	\$6.90	\$26.33	35.5%
Upgraded, TV and VCR on one outlet, TV only on second outlet OR Upgraded, TV on three outlets	\$19.43	\$10.35	\$29.78	53.3%
Upgraded, TV and VCR both on two outlets OR Upgraded, TV on four outlets	\$19.43	\$13.80	\$33.23	71.0%

\* Service Cost effective July 14, 1994. Service Cost from September 1, 1993 through July 13, 1994 was slightly higher at \$20.19. Accordingly, when newly required equipment costs were added since the upgrade began in January 1994, a similar percentage increase resulted.

\*\* For ease of comparison, costs assume a subscriber-owned universal remote, exclude franchise fees and exclude in-house amplifiers, if required.

Page Three

**Conclusion:** We respectfully request that you take all appropriate action to determine if Warner's new requirement for home terminals constitutes an evasion of FCC regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Muntean", written in a cursive style.

David Muntean  
Assistant Law Director

The City of Akron  
161 South High Street  
202 Ocasek Building  
Akron, Ohio 44308-1655  
(216) 375-2030

For The Akron Area Cities

**Attachments**

cc: William Farmer, Vice President of Operations and Public Affairs  
Warner Cable Communications of Greater Akron



OLD SYSTEM -

# Warner Cable Greater Akron Area Channel Line-Up



**WARNER CABLE**  
*Great Performances. Every Day.*

Level of Service	Channel	Programming
Basic Service	2	WKYC (NBC) Cleveland Ch. 3
Basic Service	3	WDLI (IND) Canton Ch. 17
Basic Service	4	WAKC (ABC) Akron Ch. 23
Basic Service	5	WVIZ (PBS) Cleveland Ch. 25
* Basic Service	6	WUAB (IND) Cleveland Ch. 43
Basic Service	7	Warner Video Pages/Community Access
Basic Service	8	WBNX (IND) Cuyahoga Falls, Ch. 55
* Basic Service	9	WJW (CBS) Cleveland Ch. 8
Basic Service	10	WEAO (PBS) Akron Ch. 49
* Basic Service	11	WEWS (ABC) Cleveland Ch. 5
Basic Service	12	WOAC (IND) Canton Ch. 67
Basic Service	13	Open
Standard Tier Service	14	ESPN
Standard Tier Service	15	TNT - Turner Network Television
Standard Tier Service	16	USA Network
Standard Tier Service	17	Headline News
Standard Tier Service	18	A & E - Arts & Entertainment
Standard Tier Service	19	Lifetime Television
Standard Tier Service	20	C - SPAN
Standard Tier Service	21	CNN
Standard Tier Service	22	QVC Warner Home Shopping
<b>Premium Channel</b>	23	The Disney Channel
Standard Tier Service	24	Nickelodeon
Standard Tier Service	25	Warner Home Theatre (Pay-Per-View) Previews
Standard Tier Service	26	MTV - Music Television
<b>Premium Channel</b>	27	Home Box Office
Standard Tier Service	28	TNN - The Nashville Network
Standard Tier Service	29	The Family Channel
	30	SportsChannel Ohio
A La Carte Service	31	The Discovery Channel
A La Carte Service	32	WTBS (IND) Atlanta
A La Carte Service	33	AMC - American Movie Classics
Standard Tier Service	34	CNBC - Consumer News & Business
Standard Tier Service	35	C - SPAN II (6AM - 8PM)
Standard Tier Service		BET - (8PM - 6AM)
Standard Tier Service	36	VH - 1 - Video Hits One
<b>Pay Per View</b>	37	Warner Home Theatre (Pay-Per-View)
<b>Pay Per View</b>	38	Warner Home Theatre (Pay-Per-View)
<b>Premium Channel</b>	39	Cinemax
<b>Premium Channel</b>	40	Showtime
<b>Premium Channel</b>	41	The Movie Channel

\* Denotes change in channel position as of October 6, 1993

# Current Akron Line Up

18 Jan - 94

Cable Pos.	Programming
2	WKYC/NBC - CH 3
3	WDLI/IND - CH 17
4	WAKC/ABC - CH 23
5	WVIZ/PBS - CH 25
6	WUAB/IND - CH 43
7	WARNER VIDEO PAGES/COMMUNITY ACCESS
8	WBNX/IND - CH 55
9	WTW/CBS - CH 8
10	WFAO/PBS - CH 45
11	WEWS/ABC - CH 5
12	WOAC/IND - CH 67
13	WOIO/FOX - CH 19
14	QVC
<b>Basic Service (13)</b>	
15	TNT
16	USA
17	HEADLINE NEWS
18	A & E
19	LIFETIME
20	C-SPAN I
21	CNN
22	ESPN
23	DISNEY (Premium)
24	NICKELODION
25	SNEAK PREVUE
26	MTV
27	HBO (Premium)
28	THE NASHVILLE NETWORK
29	THE FAMILY CHANNEL
30	SPORTSCHANNEL OHIO
<b>Satellite Tier (17)</b>	
31	THE DISCOVERY CHANNEL
32	WTBS
33	AMERICAN MOVIE CLASSICS
<b>A La Carte (Trapped)</b>	
34	CNBC
35	C-SPAN2/BLACK ENTERTAINMENT TELEVISION
36	VH-1
<b>Satellite Tier</b>	
37	PPV1 - VIEWER'S CHOICE
38	PPV2 - REQUEST
39	CINEMAX
40	SHOWTIME
41	THE MOVIE CHANNEL
<b>Optional</b>	

# Akron Upgrade Line Up

18 Jan - 94

Cable Pos.	Programming
2	WKYC/NBC - CH 3
3	WDLI/IND - CH 17
4	WAKC/ABC - CH 23
5	WVIZ/PBS - CH 25
6	WUAB/IND - CH 43
7	WARNER VIDEO PAGES/COMMUNITY ACCESS
8	WBNX/IND - CH 55
9	WTW/CBS - CH 8
10	WFAO/PBS - CH 45
11	WEWS/ABC - CH 5
12	WOAC/IND - CH 67
13	WOIO/FOX - CH 19
14	QVC
<b>Basic Service (13)</b>	
15	BLACK ENTERTAINMENT TELEVISION
16	VH-1
17	CONSUMER NEWS & BUSINESS
18	HEADLINE NEWS
19	USA
20	NICKELODION
21	CNN
22	LIFETIME
23	MTV
24	ESPN
25	TNT
26	ARTS & ENTERTAINMENT
27	THE FAMILY CHANNEL
28	THE WEATHER CHANNEL
29	THE NASHVILLE NETWORK
30	SPORTSCHANNEL OHIO
31	C-SPAN
32	
33	
34	
<b>Satellite Tier (17)</b>	
35	DISCOVERY
36	AMERICAN MOVIE CLASSICS
37	WTBS/IND - CH 17
<b>Discovery Package (Scrambled)</b>	
38	WGN
39	ESPN2
40	COMEDY
41	THE CARTOON CHANNEL
42	ET
43	COUNTRY MUSIC TELEVISION
44	THE LEARNING CHANNEL
45	BRAVO
46	COURT TV
47	C-SPAN II
48	VISN
49	LOCAL PROGRAMING
<b>Entertainment Package (Scrambled)</b>	
50	SNEAK PREVUE
51	PPV1 - REQUEST
52	PPV2 - VIEWER'S CHOICE
53	TMC
54	MAX
55	DIS
56	SHO
57	HBO
58	HBO2
59	HBO3
60	SHO2
61	FLIX
62	PPV3 - ACTION
63	PPV4 - PLAYBOY
64	PPV5 - HOT CHOICE
<b>Optional (Scrambled)</b>	

# Public Utilities

## SUBSTITUTE OFFERED AS AN AMENDMENT

Offered by MITTIGA AND KILBY

RESOLUTION NO. 188 -1994 urging the United States Senate and House of Representatives to reconsider the Cable Act of 1992; criticizing the actions taken by Warner Cable under the provisions of the Cable Act of 1992; encouraging Akron officials to file a formal complaint about Warner Cable's new policies with the Federal Communications Commission; requesting Warner Cable to suspend its format conversion; and declaring an emergency.

WHEREAS, the Cable Act of 1992 allows cities to only regulate basic cable service rates within their city limits; and

WHEREAS, policies and restructuring implemented by Warner Cable under the Cable Act of 1992 have presented many complaints by residents of the City of Akron; and

WHEREAS, under these new policies, cable subscribers are forced to rent, without any possibility of purchasing, from Warner Cable converter boxes at a monthly rate; and

WHEREAS, these new converter boxes are incompatible with customers' equipment, and cable subscribers are limited in their abilities to view and tape satellite tier offerings and view picture to picture television; and

WHEREAS, cable customers who are subscribing to the basic tier and satellite tier and are not exercising the buy through provision of the Cable Act of 1992 have found the new converter boxes to be an unnecessary and excessive expense; and

WHEREAS, Warner Cable has until October 5, 2002 to comply with the buy through provision if it is determined that it is an excessive expense for cable subscribers; and

WHEREAS, City of Akron cable subscribers feel that they are receiving less and poorer quality service from Warner Cable under its new policies, but having to pay more for this diminished service; and

WHEREAS, Council is of the opinion that Warner Cable's new policies are unfair to the position Warner Cable holds as the sole cable provider in Akron; and

WHEREAS, the City, having already exercised its only authority regarding cable television by regulating basic cable service, sees the need to appeal to the United States Congress for more regulatory authority while simultaneously informing the Federal Communications Commission of the policies of Warner Cable.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Akron:

Section 1. That Council hereby urges the United States Senate and House of Representatives to reconsider the Cable Act of 1992 and explore expanding the authority of municipalities to regulate local cable service practices.

Section 2. That Council hereby criticizes the policies implemented by Warner Cable under the Cable Act of 1992 which result in less and poorer quality cable services at increased costs to the citizens of Akron.

Section 3. That Council hereby encourages Akron officials to file a formal complaint about Warner Cable's new policies with the Federal Communications Commission.

Section 4. The Clerk of Council be and is hereby authorized and directed to forward a copy of this resolution to Ohio Senators John Glenn and Howard Metzenbaum, Ohio Congressman Tom Sawyer, the Chairman of the Federal Communications Commission, and Steve Fry, President of Warner Cable of Akron.

Section 5. That Council hereby requests that Warner Cable immediately suspend the conversion to its new format until Warner Cable officials meet with City officials on the issues of compatibility, necessity for converter boxes and customer service.

Section 6. That this resolution is hereby declared to be an emergency measure because it is necessary to reflect the citizen views on the new Warner Cable policies and explore options available to the City as soon as possible, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed March 21, 1994

Vincent Ciaco  
Clerk of Council

Dave Fryant  
President of Council

Approved March 24, 1994

AM 20 Pfl  
MAYOR Dec 11

Offered by MAYOR & COUNCIL AS A WHOLE

## Public Utilities

RESOLUTION NO. 313 -1994 stating Akron City Council's resolve to cooperate with other communities in Summit, Wayne, and Medina Counties in dealing with the issue of Warner Cable's installation of the new home terminal cable boxes and further requesting the Mayor to determine the feasibility of sharing in the costs of cable consultants to deal with Warner Cable's installation of the new home cable boxes; and declaring an emergency.

WHEREAS, citizens in various communities have expressed concern and/or dissatisfaction with Warner Cable's installation of the new home terminal cable boxes; and

WHEREAS, Warner Cable's installation of the new home terminal cable boxes is an issue of regional concern; and

WHEREAS, a cooperative effort among the affected communities in dealing with the home terminal cable box issue is an advantageous method in resolving this regional issue, and

WHEREAS, it is desirable to determine the feasibility of sharing among the affected communities in the costs of consultants in dealing with the Warner Cable home terminal cable box issue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Akron:

Section 1. That Council resolves to cooperate with other communities in Summit, Wayne and Medina Counties in dealing with the issue of Warner Cable's installation of the new home terminal cable boxes.

Section 2. That Council requests the Mayor to determine the feasibility of sharing in the costs of cable consultants to deal with the issue of Warner Cable's installation of the new home terminal cable boxes.

Section 3. That Council resolves, to the extent possible, to deal with the Warner Cable home terminal cable box issue on a regional basis.

Section 4. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health or safety for the reason that Warner Cable has begun to install the home terminal cable boxes in certain areas and Council desires to take immediate action to promote regional cooperation on cable issues, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed May 2, 1994

Vincent Cirace  
Clerk of Council

Dave Zupit  
President of Council

Approved May 12, 1994

Joe R. Pflin  
MAYOR  
Mayor  
Warner  
Cable

Presented by: Mr. Cox  
Mr. Palmer  
Mr. Bauschlinger  
Mr. Pramuka  
Mr. Lasko  
Mr. Lazar  
Mr. Graham  
Mr. Brumagin  
Mr. Genet

RESOLUTION NO. 78-1994  
Sponsored by: Mr. Graham

TITLE: WARNER CABLE

A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON PLEDGING COOPERATION WITH OTHER COMMUNITIES IN SUMMIT, WAYNE, AND MEDINA COUNTIES IN DEALING WITH THE ISSUES OF WARNER CABLE'S INSTALLATION OF THE NEW HOME TERMINAL CABLE BOXES AND FURTHER REQUESTING THE MAYOR TO DETERMINE THE FEASIBILITY OF SHARING IN THE COSTS OF CABLE CONSULTANTS TO DEAL WITH WARNER CABLE'S INSTALLATION OF THE NEW HOME CABLE BOXES, AND DECLARING AN EMERGENCY.

WHEREAS, citizens in various communities have expressed concern and/or dissatisfaction with Warner Cable's installation of the new home terminal cable boxes; and

WHEREAS, Warner Cable's installation of the new home terminal cable boxes is an issue of regional concern; and

WHEREAS, a cooperative effort among the affected communities in dealing with the home terminal cable box issue is an advantageous method in resolving this regional issue; and

WHEREAS, it is desirable to determine the feasibility of sharing among the affected communities in the costs of consultants in dealing with the Warner Cable home terminal cable box issue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Council resolves to cooperate with other communities in Summit, Wayne and Medina Counties in dealing with the issue of Warner Cable's installation of the new home terminal cable boxes.

SECTION 2. That Council requests the Mayor to determine the feasibility of sharing in the costs of cable consultants to deal with the issue of Warner Cable's installation of the new home terminal cable boxes.

SECTION 3. That Council resolves, to the extent possible, to deal with the Warner Cable home terminal cable box issue on a regional basis.

SECTION 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, and for the reason that it concerns the efficient operation of the City and shall, therefore, be in full force and effect immediately upon its passage and approval by the Mayor.

Passed

May 9, 1994  
Mildred M. Hays  
Clerk of Council  
Kenneth R. Cox  
President of Council

Approved

May 9, 1994  
Larry Hart  
Mayor

RESOLUTION NO. 1994-156

REQUESTED BY ORRIS  
APPROVED BY PUB. IMP. COM.  
INTRODUCED BY ORRIS

A RESOLUTION STATING THAT STOW CITY COUNCIL RESOLVES TO COOPERATE WITH OTHER COMMUNITIES IN SUMMIT, WAYNE, AND MEDINA COUNTIES IN DEALING WITH THE ISSUE OF WARNER CABLE'S INSTALLATION OF THE NEW HOME TERMINAL CABLE BOXES AND FURTHER REQUESTING THE MAYOR TO DETERMINE THE FEASIBILITY OF SHARING IN THE COSTS OF CABLE CONSULTANTS TO DEAL WITH WARNER CABLE'S INSTALLATION OF THE NEW HOME CABLE BOXES; AND DECLARING AN EMERGENCY.

WHEREAS, citizens in various communities have expressed concern and/or dissatisfaction with Warner Cable's installation of the new home terminal cable boxes, and

WHEREAS, Warner Cable's installation of the new home terminal cable boxes is an issue of regional concern, and

WHEREAS, a cooperative effort among the affected communities in dealing with the home terminal cable box issue is an advantageous method in resolving this regional issue, and

WHEREAS, it is desirable to determine the feasibility of sharing among the affected communities in the costs of consultants in dealing with the Warner Cable home terminal cable box issue.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOW, COUNTY OF SUMMIT AND STATE OF OHIO:


SECTION 1. That Council resolves to cooperate with other communities in Summit, Wayne and Medina Counties in dealing with the issue of Warner Cable's installation of the new home terminal cable boxes.

SECTION 2. That Council requests the Mayor to determine the feasibility of sharing in the costs of cable consultants to deal with the issue of Warner Cable's installation of the new terminal cable boxes.

SECTION 3. That Council resolves, to the extent possible, to deal with the Warner Cable home terminal cable box issue on a regional basis.

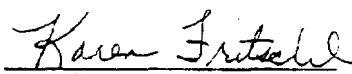
SECTION 4. This Resolution was adopted pursuant to Section 4.11, Charter, and is hereby declared to be an emergency measure necessary for the immediate preservation of the public health and safety for the reason that Warner Cable has begun to install the home terminal cable boxes in certain areas in Summit County and Council desires to take immediate action to promote regional cooperation on cable issues, and, pursuant to Section 4.13, Charter, shall take effect upon its adoption by Council and approval by the Mayor, otherwise at the earliest period allowed by law.

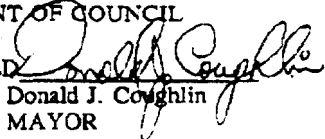
ADOPTED BY COUNCIL 6/9/94

ATTEST   
Bonnie J. Emahiser  
CLERK OF COUNCIL

FILED WITH MAYOR 6/13/94

FILED WITH CLERK 6/13/94

  
Karen Fritschel  
PRESIDENT OF COUNCIL

APPROVED   
Donald J. Coughlin  
MAYOR



APPROVED AS TO FORM

EFFECTIVE DATE 6/13/94

  
James A. Merlitti  
LAW DIRECTOR